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Remarks

Reconsideration of the above-captioned application is respectfully requested. Now-canceled Claims 21-24 have been rejected under 35 U.S.C. §102 as being anticipated by Williams et al., USPN 5,977,964, and Claims 1-20 have been rejected under 35 U.S.C. §103 as being unpatentable over Williams et al. in view of Alexander et al., USPN 6,177,931.

The examiner agrees that Williams et al. does not download A/V content based on usage patterns, proposing to add Alexander et al. to the mix to remedy the shortfall, relying on the teaching in Alexander et al., col. 34, lines 10-25 that video ads can be downloaded by an EPG. This is true; however, a subtle yet critical nuance has escaped the reasoning in the rejections. Specifically, if the references were to be combined in accordance with what they teach, a TV schedule would be downloaded which shows only those shows that are available at the predicted access times, according to Williams et al., with video ads being downloaded by a presumably related EPG - but not at predicted access times (Claims 1 and 15), predicted times of usage (Claim 2), or predicted times (Claim 8). Instead, the ads would be downloaded as Alexander et al. teaches, namely, at indeterminant times based on what type of show the user has highlighted, col. 34, lines 1-9, without any regard for or evident concept of timing the download in accordance with any predicted times. Since it is agreed that only Alexander et al. teaches downloading video, and since Alexander et al. does not evidently do so at any particularly predicted time, there is no suggestion in the references to do something which neither reference in fact does.

The fact that Applicant has focussed its comments distinguishing the present claims from the applied references and countering certain rejections must not be construed as acquiescence in other portions of rejections not specifically addressed. For example, *apropos* Claims 4-6, even if the beginning and end of

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the time window in Williams et al. relied on in the Office Action are "start up times" and "shut down times", a point that Applicant does not concede, there is no suggestion that the relied-upon schedule, much less a gateway screen, is downloaded based specifically on the relied-upon beginning and ending times.

The Examiner is cordially invited to telephone the undersigned at (619) 338-8075 for any reason which would advance the instant application to allowance.

Respectfully submitted,



John L. Rogitz  
Registration No. 33,549  
Attorney of Record  
750 B Street, Suite 3120  
San Diego, CA 92101  
Telephone: (619) 338-8075

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